

United States Court of Appeals

FOO TWO
~~SECOND~~ CIRCUIT

() APPLICATION FOR ENFORCEMENT
(X) PETITION FOR REVIEW

PRE-ARGUMENT STATEMENT

SEE NOTICE ON REVERSE. PLEASE TYPE OR PRINT. ATTACH ADDITIONAL PAGES IF NECESSARY.

TITLE IN FULL: Asociacion de Compositores y Editores de MusicLatino Americana Petitioner V. Copyright Royalty Tribunal Respondent	<table border="0" style="width: 100%;"> <tr> <td colspan="2" style="text-align: right;">Agency Disposition</td> </tr> <tr> <td>: NAME OF AGENCY</td> <td>: AGENCY</td> </tr> <tr> <td>: Copyright Royalty Tribunal</td> <td>: DOCKET NUMBER 85-1-84JD</td> </tr> </table> <hr/> <table border="0" style="width: 100%;"> <tr> <td>: ORDER</td> <td>: DATE</td> <td>: APPROX NUMBER OF</td> </tr> <tr> <td>: NUMBER None</td> <td>: ENTERED</td> <td>: PAGES IN RECORD</td> </tr> <tr> <td></td> <td>: 11/25/86</td> <td>: 1000</td> </tr> </table> <hr/> <table border="0" style="width: 100%;"> <tr> <td>: NUMBER OF</td> <td>: JURISDICTION OF</td> </tr> <tr> <td>: EXHIBITS</td> <td>: COURT OF APPEALS 17 USCA § 810</td> </tr> <tr> <td>: 52</td> <td></td> </tr> </table> <hr/> <table border="0" style="width: 100%;"> <tr> <td>: HAS THIS MATTER BEEN BEFORE THIS COURT</td> </tr> <tr> <td>: PREVIOUSLY? () YES (X) NO IF YES, STATE:</td> </tr> <tr> <td>: CASE NAME:</td> </tr> <tr> <td>: CITATION:</td> </tr> <tr> <td>: DKT. NO.:</td> </tr> </table>	Agency Disposition		: NAME OF AGENCY	: AGENCY	: Copyright Royalty Tribunal	: DOCKET NUMBER 85-1-84JD	: ORDER	: DATE	: APPROX NUMBER OF	: NUMBER None	: ENTERED	: PAGES IN RECORD		: 11/25/86	: 1000	: NUMBER OF	: JURISDICTION OF	: EXHIBITS	: COURT OF APPEALS 17 USCA § 810	: 52		: HAS THIS MATTER BEEN BEFORE THIS COURT	: PREVIOUSLY? () YES (X) NO IF YES, STATE:	: CASE NAME:	: CITATION:	: DKT. NO.:
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ATTORNEY(S) FOR :	NAME	ADDRESS	TELEPHONE
PETITIONER(S) :	Lawrence J. Bernard, Jr.	1100-17th St., NW Wash., DC 20036	(202) 785-0200
RESPONDENT(S) :	Bruce G. Forest	Civil Div. Rm 3618 U.S. Dept. of Justice, Wash. D.C. 20530	(202) 633-5672

APPEAL TAKEN. (X) AS OF RIGHT () BY DISCRETION SPECIFY STATUTES UNDER WHICH APPEAL IS TAKEN: USCA §

PETITIONER/APPLICANT IS () AGENCY (X) OTHER PARTY () NON-PARTY: SPECIFY STANDING: Petitioner was a claimant to copy-right royalty fees below and is an aggrieved party under 17 USC §810

FACTS UPON WHICH VENUE IS BASED: Appeal may be filed in any of the United States Court of Appeals under 17 USC §810

NATURE OF ORDER OF WHICH REVIEW OR ENFORCEMENT IS SOUGHT:

() ADMINISTRATIVE REGULATION/RULEMAKING () BENEFITS REVIEW () HEALTH AND SAFETY () IMMIGRATION	() ROUTES: () COMMUNICATIONS () COMMERCE (X) OTHER: (Specify) <u>Jukebox Copyright Royalty distribution held pursuant to 17 USC §116(c)</u> () UNION () TARIFFS () UNFAIR LABOR PRACTICE: () EMPLOYER
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CONCISE DESCRIPTION OF PROCEEDINGS BELOW AND ORDER TO BE REVIEWED OR ENFORCED (NOTE THOSE PARTS OF THE ORDER FROM WHICH RELIEF IS SOUGHT):

See attached page

ISSUES PROPOSED TO BE RAISED ON PETITION OR APPLICATION:

See attached page

RELIEF SOUGHT: Reversal and remand to agency with instructions to conclude Petitioner is a Performing Rights Society under 17 USC §§116(c) (4) and 116(e) (3) TO YOUR KNOWLEDGE, IS THERE ANY CASE NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT OR ANY OTHER COURT OR ADMINISTRATIVE AGENCY WHICH:

(A) ARISES FROM SUBSTANTIALLY THE SAME CASE OR CONTROVERSY AS THIS APPEAL?
 () YES () NO
 (B) INVOLVES AN ISSUE THAT IS SUBSTANTIALLY THE SAME, SIMILAR, OR RELATED TO AN ISSUE IN THIS APPEAL? (X) YES () NO
 (IF YES, STATE WHETHER () "A" OR (X) "B" OR () BOTH AND PROVIDE:

CASE NAME:	CITATION:	DOCKET NUMBER:	COURT OR AGENCY:	United States Court of Appeals for D.C. Circuit
ACEMLA v. CRT	Case #85-1804	CRT Dkt. #83-2/84-2JD		

FOR PETITIONER OR APPLICANT:

Print

NAME OF PETITIONER	NAME OF COUNSEL OF RECORD	TELEPHONE
January 9, 1987	Lawrence J. Bernard, Jr.	(202) 785-0200
DATE	SIGNATURE OF COUNSEL OF RECORD	

ATTACHMENT TO PRE-ARGUMENT STATEMENT

1. Concise description of proceedings below and order to be reviewed (Note those parts of the form which relief is sought).
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The proceedings below were conducted by the U.S. Copyright Royalty Tribunal ("CRT") pursuant to 17 U.S.C. §116(c)(3), to determine the parties to whom distribution of copyright royalty fees paid to the U.S. Copyright Office in 1984 should be made. The proceedings reviewed determined that Petitioner was not a performing rights society as defined by 17 U.S.C. §116(e)(3) and therefore was not entitled to participate in the distribution of copyright royalty fees made to such organizations under 17 U.S.C. §116(c)(4)(B). The CRT concluded that Petitioner was a copyright owner under 17 U.S.C. §116(c)(4)(A) and was entitled to a distribution of 0.06% of the copyright royalty fees collected in 1984. The remaining 99.96% of the 1984 fees were ordered to be distributed to three performing rights societies.

Petitioner seeks relief from the conclusion that it was not a performing rights society in 1984 and from the conclusion that it was entitled to only 0.06% of the royalty fees.

2. Issues proposed to be raised on petition.

Petitioner believes that the following issues will be presented to this Court:

1. Was the Copyright Royalty Tribunal's determination that a performing rights society must be "an organization independent enough of copyright owners to have its own organization papers and structure" consistent with the statutory scheme established by Congress in the Copyright Revision Act of 1978?

2. Whether the Copyright Royalty Tribunal's determination that Petitioner was not a performing rights society in 1984 was contrary to the overwhelming record evidence tending to show that, in fact, Petitioner met the statutory requirements for a performing rights society.

3. Whether the Copyright Royalty Tribunal's award of 0.06% of the funds to Petitioner was arbitrary, capricious, and erroneous as a matter of law.